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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION**

KLAMATH-SISKIYOU WILDLANDS
CENTER, *et al.*,

Plaintiffs,

v.

UNITED STATES BUREAU OF
LAND MANAGEMENT,

Federal Defendant,

AMERICAN FOREST RESOURCE
COUNCIL; ASSOCIATION OF O&C
COUNTIES,

Intervenor-Defendants.

Case No.: 1-23-cv-00519-CL (Lead Case)
Case No.: 1-23-cv-01163-CL (Trailing Case)

**FEDERAL DEFENDANT'S RESPONSE
TO PLAINTIFFS' NOTICE OF
SUPPLEMENTAL AUTHORITY**

Federal Defendant Bureau of Land Management hereby responds to the notice of supplemental authority filed by Plaintiffs Klamath-Siskiyou Wildlands Center, Cascadia Wildlands, Oregon Wild, and Soda Mountain Wilderness Council (“KS Wild”).

On April 10, 2024, the Honorable Magistrate Judge Kasubhai issued a Findings and Recommendation in *Cascadia Wildlands v. Adcock*, which was referred to the Honorable Chief U.S. District Judge McShane, but is now stayed pending remedy briefing. No. 6:22-cv-1344-MK, ECF 44 (April 10, 2024) (“F&R”). That litigation concerns the Siuslaw HLB Landscape Plan proposed by the Siuslaw Field Office of BLM’s Northwest Oregon District. The Siuslaw HLB Landscape Plan is aimed at achieving a sustained yield of timber under the Oregon & California Railroad and Coos Bay Wagon Road Grant Lands Act (O&C Act), proposing treatments on the Harvest Land Base through thinning and regeneration harvest. *See* No. 6:22-cv-1344-MK, ECF 1; 43 U.S.C. § 2601. On April 12, 2024, KS Wild filed its Notice of Supplemental Authority attaching the F&R. ECF 50, Exhibit 1.

Reliance on the F&R at this time would be misplaced as it is not a final order of the District Court and remains subject to objections. Remedy briefing in *Cascadia* is ongoing, with briefs from both parties due on May 2, 2024 to Magistrate Judge Kasubhai. *Cascadia*, ECF 47. Following completion of remedy briefing and issuance of an amended F&R, Judge McShane ordered the parties to confer and propose a new schedule for objections on the amended F&R. *Cascadia*, ECF 47.

In any event, the F&R cautioned against making any “general finding” that tiering a site-specific landscape analysis to the final environmental impact statement (“FEIS”) for the 2016 Resource Management Plan was improper. F&R at 9 (“To the extent that Plaintiffs’ Motion asks the Court to make a general finding that the BLM’s tiering approach throughout the Siuslaw

Plan EA violated NEPA, the Court cannot do so in the abstract.”). Having declined to make any abstract pronouncements about tiering or site-specificity, the court framed the relevant inquiry as “whether the BLM failed to take a ‘hard look’ at significant environmental impacts of the Siuslaw Plan, and specifically whether the BLM’s use of tiering *in this particular instance* was insufficient because neither the EA nor the EIS considered specific potentially significant issues.” *Id.* (emphasis in original). The court then looked at the analyses in the FEIS and the Siuslaw HLB EA on soil disturbance, noxious weeds and invasive species, special status species, and cumulative impacts, finding that the analyses as to those specific resources violated NEPA. *See id.* at 10. Notably, those are not the same resources challenged in this action and, as explained in Federal Defendant’s previous briefing, the FEIS and EA extensively assessed the potential effects of the IVM-RL Program on recreation, fire risk, moist forests, and northern spotted owls. *See* ECF 37 (Federal Defendants’ Cross-Motion for Summary Judgment). As such, the F&R is of limited relevance.

DATED: April 25, 2024

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s/ Alexis G. Romero
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CERTIFICATE OF SERVICE

I hereby certify that on this 25th of April, 2024 I filed the above pleading with the Court's CM/ECF system, which provided notice of this filing by email to all counsel of record.

/s/ Alexis G. Romero

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